

ORDINANCE NO. 11-3010

AN ORDINANCE AMENDING THE BEDFORD CODE OF ORDINANCES, CHAPTER 82, "OFFENSES AND MISCELLANEOUS PROVISIONS," ARTICLE III, "SMOKING," BY AMENDING SECTION 82-72, "PROHIBITED IN CERTAIN AREAS," IN ITS ENTIRETY; PROVIDING FOR A PENALTY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the smoking of tobacco, weeds, or other plant products has been demonstrated to have a detrimental effect on not only the smoker, but others in close proximity to the smoker; and,

WHEREAS, the City Council of Bedford, Texas desires to promote the health and safety of persons entering and exiting City facilities; and,

WHEREAS, the City Council of Bedford, Texas has determined that the amendments to the Bedford Code of Ordinances herein made are in the best interest of the health, safety, and general welfare of the citizens of the City of Bedford.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEDFORD, TEXAS:

SECTION 1. That Chapter 82, "Offenses and Miscellaneous Provisions," Article III, "Smoking," SECTION 82-72 is hereby amended in its entirety to read as follows:

Section 82-72. Prohibited in certain public areas.

- (a) A person commits an offense if he or she smokes or possesses a burning tobacco, weed or other plant product in any of the following indoor or enclosed areas:**
 - (1) An elevator used by the public;**
 - (2) A hospital or nursing home corridor providing direct access to patients' rooms;**
 - (3) Any facility owned, operated or managed by the city unless the area is designated as a smoking area. The city manager or a designated agent may designate an area as a smoking area;**
 - (4) Any retail or service establishment for serving the general public;**
 - (5) An area marked with a no smoking sign in accordance with subsection (b) of this section by the owner or person in control of a hospital, nursing home, or retail or service establishment serving the general public; or**
 - (6) An enclosed theater, movie house, library, museum or transit system vehicle.**
- (b) A person commits an offense if he or she smokes or possesses a burning tobacco, weed or other plant product within 100 feet of the main public entrance of the Bedford Public Library.**
- (c) Except as specified in subsection (b), a person commits an offense if he or she smokes or possesses a burning tobacco, weed or other plant product within 25 feet of a public entrance of any City facility.**
- (d) The owner or person in control of an establishment or area designated in subsection (a) of this section shall post a conspicuous sign visible from the main public entrance to the nonsmoking area. The sign shall contain the words "No Smoking, City of Bedford Ordinance," the universal symbol for no smoking, or other language that clearly prohibits smoking.**
- (e) The owner or person in control of an establishment or area described in subsection (a)(4) or (a)(6) may designate an area, including but not limited to lobbies, meeting rooms or waiting rooms, as a smoking area; provided that the designated smoking area may not include:**
 - (1) The entire establishment;**
 - (2) Cashier areas or over-the-counter sales areas; or**
 - (3) The viewing area of any theater or movie house.**

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- (f) It is a defense to prosecution under this section if the person was smoking in a location that was:
- (1) A designated smoking area of a facility or establishment described in subsection (a)(4) or (a)(6) of this section which is posted as a smoking area with appropriate signs;
 - (2) An administrative area or office of an establishment described in subsection (a)(4) or (a)(6) of this section;
 - (3) A retail or service establishment serving the general public with less than 1,000 square feet of public showroom or service space; or
 - (4) A retail or service establishment which is primarily engaged in the sale of tobacco products or smoking implements.

SECTION 2. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed the maximum permissible by state law and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

SECTION 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 3. This ordinance shall become effective upon passage and publication in accordance with laws of the State of Texas and the Charter of the City of Bedford.

SECTION 4. That all ordinances or any parts thereof in conflict with the terms of this ordinance shall be and hereby are deemed repealed and of no force or effect; provided, however, that the ordinance or ordinances under which the cases currently filed and pending in the Municipal Court of the City of Bedford, Texas, shall be deemed repealed only when all such cases filed and pending under such ordinance or ordinances have been disposed of by a final conviction or a finding not guilty or nolo contendere, or dismissal.

PRESENTED AND PASSED on this 13th day of September 2011, by a vote of 7 ayes, 0 nays and 0 abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

Jim Story, Mayor

ATTEST:

Michael Wells, City Secretary

APPROVED AS TO FORM:

Stan Lowry, City Attorney